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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Brian W. Ables

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7590

03/08/2004

OWENS CORNING
2790 COLUMBUS ROAD
GRANVILLE, OH 43023

EXAMINER

LAZOR, MICHELLE A

ART UNIT

PAPER NUMBER

1734

DATE MAILED: 03/08/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,608

Applicant(s)

ABLES ET AL.

e03

Examiner

Michelle A Lazor

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 17-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 9-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/28/02, 8/30/01
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1 – 16, drawn to a hold down bar, classified in class 118, subclass 400.
 - II. Claims 17 - 26, drawn to an apparatus for immersing material into a pan, classified in class 118, subclass 400.
 - III. Claims 27 – 31, drawn to a method of immersing material into a pan, classified in class 427, subclass 430.1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Group III and Groups I-II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus of Groups I-II can be used to perform a materially different process other than that of Group II, such as immersing a non-continuous article or a container or means for merely holding solid material.
3. Inventions of Group II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the apparatus of Group II does not

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require the claimed structure of the hold down bar of Group I. The subcombination has separate utility such as a means for transporting tow or fibers to a heating means.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with James Dottavio on October 21, 2002 a provisional election was made with traverse to prosecute the invention of Group I, , claims 1 – . Affirmation of this election must be made by applicant in replying to this Office action. Claims 17 – 31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1 – 3, 5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (U.S. Patent No. 2354459).

Harris et al. disclose an apparatus comprising: a pair of laterally spaced mounting brackets or screws (10) (10') (Figure 2), a mounting bar or shaft (7) laterally supported between the mounting brackets; what is considered tubing or conical journals (12) mounted for rotation to the mounting bar, the tubing being adapted to rotate about a laterally extending axis; and a hold-down bar comprising: a first rod (8) extending radially from the tubing, the first rod being adapted to rotate with the tubing about the laterally extending axis; a second rod (6) cantilevered and at 90° to the first rod, the second rod having an end; and a pulley or sheave (5) with a groove and laterally extending shaft (Figures 1 and 2), supported by the end of the second rod, the sheave (5) being adapted to orbit around the mounting bar upon rotating the first rod (page 1, column 2 – page 2, column 3). Thus Harris et al. disclose all the limitations of Claims 1 – 3, 5, 7, and 8, and anticipate the claimed invention.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. as applied in Claim 1 above, in view of Hill (U.S. Patent No. 131681) and Holzer, Jr. et al. (U.S. Patent No. 6067928).

Harris et al. disclose all the limitations of Claim 1, but do not disclose laterally extending pins located at each of the ends of the second rods, as well as a plurality of laterally spaced contacts. However, Hill discloses what is considered to be a pin or

grooved guide at the end of a second rod (page 1, column 2), and Holzer, Jr. et al. disclose a plurality of laterally spaced contacts (Figures 1 and 2). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a pin or grooved guide at the end of a second rod as an alternative to a pulley configuration, and it would have been obvious to use a plurality of laterally spaced contacts in order to coat a plurality of filaments.

11. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. as applied in Claim 1 above, in view of Holzer, Jr. et al.

Harris et al. disclose all the limitations of Claim 1, but do not disclose a plurality of laterally spaced contacts. However, Holzer, Jr. et al. disclose a plurality of laterally spaced contacts (Figures 1 and 2). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a plurality of laterally spaced contacts in order to coat a plurality of filaments.

Allowable Subject Matter

12. Claims 9 – 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. There was no reference in the prior art search that disclosed, taught, or suggested a third rod extending from the tubing, the third rod supporting a handle that is adapted for use by an operator for controlling the movement of the first rod. The prior art disclosed at most two rods, as discussed above in Harris et al.

Conclusion


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13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Camardella (U.S. Patent No. 3993803) disclose a wire feed with pivot means to immerse the wire into a bath (Figure; column 3, lines 15 – 26). Gaino (U.S. Patent No. 2979933) disclose a rack means (32), which immerses a flexible web into a treating solution via an immersion roller (Figure 1; column 2, lines 15 – 26).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle A Lazor whose telephone number is 571-272-1232. The examiner can normally be reached on Mon - Wed 6:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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2/10/04


RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700